REMARKS

Response to Arguments Section

The Examiner states that Applicant's argument is flawed in that there is no requirement to apply claim limitations given Applicant's intended definition of the terms. Nor, states the Examiner is there any requirement that the limitations cannot be separated or that the terms cannot be given alternate interpretations. Further, the Examiner states "the specification cannot be read into the claims and the claims are to be given their broadest reasonable interpretation. This does not limit the claims to applicant's definitions of terms not Applicant's meaning to the claim language. Applicant is fully aware that the specification cannot be read into the claims, however, the Examiner should be aware that the law is strong on the point of claim interpretation. As stated by the Supreme Court "any ***need or problem known in the field of endeavor at the time of the invention*** and addressed by the patent can provide a reason for combining the elements in the manner claimed." *KSR International Co. v Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). Thus, a reference in a field different from that of Applicant's endeavor may be ***reasonably*** pertinent ***if it is one, which, because of the matter with which it deals, logically would have commended itself to an inventor's attention considering his or her invention as a whole*** (emphasis added). As stated clearly by the Supreme Court, the Examiner ***must*** evaluate the ***claimed invention as a whole.*** In the entire Response to Arguments Section, the Examiner states that he does not have to do this in stark contrast to the law as it stands.

However, the law as it stands requires the Examiner to analyze the claimed invention as a whole. "In the instant case, we conclude that ***a person of ordinary skill in the art having common sense at the time of the invention*** would not have reasonably looked to _____ to solve a problem already solved by Applicant." Ex Parte Rinkevich et al, Appeal 20071317, decided May 29, 2007. Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole." W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Therefore, Applicant is confident the references used ***are inappropriate when viewing the claimed invention as a whole***. "[R]ejections on obviousness grounds cannot

be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in KSR).

Therefore, Applicant maintains his arguments and with respect to Garcia and Shambaugh as previously presented.

Claim Rejections – 35 USC § 103

The Examiner stated that claims 1-10, 12-16, 18, 20, 23-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (US 2003/0007612 hereinafter "Garcia") in view of Shambaugh et al. (US 6,970,821, hereinafter "Shambaugh") in further view of Yuschik (US 6,526,382, hereinafter "Yuschik").

The Examiner stated that claims 11, 17, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia (US 2003/0007612 hereinafter "Garcia") in view of Shambaugh and Yuschik, as applied to claim 1 above, and further in view of Rtischev et al. (US 5,634,086, hereinafter Rtischev).

Applicant respectfully disagrees and traverses independent claims 1, 23, 33, 60, 61, 62, and 63 and each and every claim depending therefrom for the reasons set forth below. As stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As per claim 1, the Examiner states that Garcia teaches, "*wherein a set of action rules is applied to the output of the determining to direct a quality assurance action to be taken*" ("scripting system may extend the story line…detect any differences incorporated into the script"). The portion quoted above by the examiner is misinterpreted. Garcia's scripting system may extend the story line or detect differences, etc. Applicant's invention, however, is a functionality based on input, if the input in is accurate, the ASR component gives a score in a manner as specified by the module, i.e. a numerical score. In turn, based on the numerical score,

a quality assurance action is taken. This is accomplished by the automatic speech recognition component of the script compliance module.

Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art as whole. MPEP §2142.02. Distilling the invention down to a gist or to a thrust of the invention disregards the "as a whole" requirement. MPEP §2142.02. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F 2d 1540, 220 USPQ 303 (Fed Cir. 1983) *cert. denied,* 469 U.S. 851 (1984) (restricting consideration of the claims to 10% per second rate of stretching of unsintered PTFE and disregarding other limitations resulted in treating claims as though they read differently than allowed). The Examiner has misinterpreted the prior art and also distilled the invention down to a thrust or gist of the invention – ***both of which are impermissible and invalidates the Examiner's analysis.*** "In determining whether the invention as a whole would have been obvious under 35 USC 103, we must first delineate the invention as a whole. In delineating the invention as a whole, we look not only to the subject matter which is literally recited in the claim in question... but also to those properties of the subject matter which are inherent in the subject matter and are disclosed in the specification. . . Just as we look to a chemical and its properties when we examine the obviousness of a composition of matter claim, ***it is this invention as a whole, and not some part of it, which must be obvious under 35 USC 103.***" (Emphasis added) In re Antonie, 559 F.2d 618, 620, 195 USPQ 6,8 (CCPA 1977) (citations omitted). *Garcia does not include this component* and thus, does not obviate the element of Applicant's claim under 37 CFR 1.111(b). Applicant's claim is clearly allowable due to this element alone.

Moreover, the Examiner states that Garcia in view of Shambaugh fail to teach panel-level time stamp is assigned to each panel. Yuschik teaches wherein a panel-level time-displacement stamp is assigned to each panel. The portion quoted by the Examiner states as follows *"The VA UI 10 is preferably implemented by a software program running on processor 8 and conceptually illustrated in FIG. 1 as a dashed box including on the one hand a command vocabulary stored in the storage 8, and on the other hand a process running on the processor 6. The process, labeled "MENU STATES.sym.TIMING" in FIG. 1**, defines menu states for the VA UI 10 and timing for the flow of a dialogue between a user and the VA UI 10.** Alternatively,*

VA UI 10 may be implemented in special purpose circuits that may be composed of integrated circuits or discrete components. Computer system 1 may be used by the user, through interactions with the VA UI 10, to obtain services or to perform tasks. These services may be performed by other software programs running on processor 8 or by one or more other processors (not shown) included in computer system 1. Alternatively, the services or task performance may be provided by any of peripheral devices 16, 18, etc., which may be included in computer system 1, or by computer system 3 in communication with computer system 1. The present invention embodies novel and unusual concepts for designing a voice activated interface such as VA UI 10. Heretofore there have existed few de facto guidelines for design and development of a VA UI. Consistent with the fact that few services and deployments exist, all of the existing principles have been ad hoc in nature and narrow in scope. The user has been expected to adopt the vocabulary of the UI, without any recognition that the user might naturally choose different words to designate given tasks. Further, there has been a failure to consider explicitly the possibility of dialog management through verbal (or implicit) "turn taking," in which an opportunity for response is signaled by the manner of speaking, and a response is anticipated. Even more so, the existing approaches have failed to recognize the effects on VA UI performance of variations in social interactions from country to country, or even from region to region within a country."

The portion highlighted in bold is the only portion in the entire passage that states ANYTHING regarding time. It does not state anything either inherently or directly about a timestamp. It does not relate back to a panel as stated in the previous response. Each time the Examiner is reaching for elements that are not in the prior art. There is no time stamp in Yuschik. Period. A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). "[R]ejections on obviousness cannot be sustained by ***mere conclusory*** statements; instead, there must be some articulated reasoning with

some rational underpinning to support the legal conclusion of obviousness." KSR, 550 U.S., 82 USPQ2d at 1396 quoting In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

The disclosure states "FIG. 1**, defines menu states for the VA UI 10 and timing for the flow of a dialogue between a user and the VA UI 10.a***"* Applicant's invention, as defined clearly in the claims states that the scripts are divided into panels, i.e. discrete panels, each of which is time stamped such that a viewer can choose a panel to view by a specific time. Yuschik, Fig. 7b, states exactly what is meant by timing in the disclosure. It is duration of the message time that is available. See FIG. 7b and accompanying discussion. Clearly, this element is not obviated by Yuschik. As such, Applicant invention is patentably distinct from Yuschik under 37 CFR 1.111(b) and allowable under 35 U.S.C. 103 (a)

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has amended independent claims 1, 23, 33, 60, 61, 62, and 63 to substantially include the following limitations: A method for evaluating compliance of at least one agent reading at least one script to at least one client, the method comprising at least the following:

> conducting at least one voice interaction between the at least one agent and the at least one client, wherein the at least one agent follows the at least one script;

> evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction; ~~and~~

> determining whether the at least one agent has adequately followed the at least one script by dividing the voice interaction into viewable panel-level segments, wherein a panel-level time displacement stamp is assigned to each panel, and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction, wherein a set of action rules is applied to the output of the determining to direct a quality assurance action to be taken.; and

> applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, wherein the output can include a numerical score indicating a degree to which the at least one agent adequately followed the at least one script,

wherein the action rules comprise a quality assurance action taken based on the numerical score.

In light of the arguments set forth above, Applicant traverses each and every claim, depending from claims 1, 23, 33, 60, 61, 62, and 63.

Support for such limitations, which are not taught or suggested by the cited art, can be found at least in pages 12-19 of the instant invention. As such, Applicant believes that claims 1, 23, 33, 60, 61, 62, and 63, as well as the claims that depend from them, are in condition for allowance and respectfully request they be passed to allowance.

Respectfully submitted,

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